IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 9776 of 1998

Between:

R. Yadaiah S/o. R. Nagulu, Hyderabad District Scheduled Castes, Coop. Society Ltd., Hyderabad.

..... PETITIONER

AND

1. The District Collector, & Chairman Hyderabad Dist Scheduled Castes Coop. Society Limited, Hyderabad.
2. The Executive Engineer Social Welfare, Engineering Wing, Hyderabad District Schduled Castes Coop. Society Limited Hyderabad.
3. The Managing Director A.P.Scheduled Castes Finance Corporation Limited, 5th Floor, Telugu Samkshema Bhavan, Masab Tank, Hyderabad.
4. Sri N. Shankaranarayana Working as I/C. Deputy Executive Engineer Social Welfare, Engineering Wing, Hyderabad District Scheduled Castes Coop. Society Limited, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more in the Nature of Mandamus declaring the orders passed by the first respondent in Lr.No. 288(EE(SW)98, dated 31-1-1998 rejecting the case of the petitioner for his promotion tot he post of I/C. Deputy Executive Engineer on the ground of performance assessment while promoting the 4th respondent who is far junior to the petitioner, as highly illegal, irregular and violative of Article 14 and 16 of the Constitution and Consequentially to set-aside the same and promote the petitioner as I/C. Deputy Executive Engineer from the date on which his junior was promoted, and to pass such other order or orders as this

Hon'ble Court may deem fit and proper in the circumstance of the case.

Counsel for the Petitioner: MR.P.V.RAMANA

Counsel for the Respondents No.1 to 3 : S.C. for Scheduled Caste Cooperative Society M.V.Bharathi.

Counsel for the Respondent No. 4 : Mr.Nuty Ram Mohan Rao.

The Court made the following :

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.9776 OF 1998

ORAL ORDER:

This writ petition is filed seeking a *mandamus* declaring the orders passed by the 1st respondent in his letter No. 288(EE(SW)98, dated 31-1-1998, rejecting the case of the petitioner for promotion to the post of incharge Deputy Executive Engineer, on the ground of performance assessment, while promoting the 4th respondent, who was far junior to the petitioner, as arbitrary, illegal and pass consequential orders.

It is the case of the petitioner that he is a diploma holder in Civil Engineering and appointed as Work Inspector in the year 1986 in the Hyderabad District Schedule Castes Cooperative Society Limited (for short 'the Society'). Further, he was also promoted as Assistant Engineer with effect from 09-01-1990. While so, post of a Deputy Executive Engineer fell vacant in the Society. There are no service regulations or rules framed or adapted by the Society governing the service conditions of the petitioner and others. The petitioner was fully qualified and eligible for promotion to the post of incharge Deputy Executive Engineer in Hyderabad.

While so, since there was no service rules available, the Managing Director of the Society decided to consider the promotion to the post of Deputy Executive Engineer on the basis of appraisal of the performance record of the eligible candidates. While doing so, the 1st respondent herein selected the 4th respondent for the said post on the ground that he had executed huge work worth Rs. 2-00 crores, whereas the petitioner executed work worth Rs. 25-00 lakhs only, during the relevant period. According to the petitioner, 4th respondent is not entitled for being considered to the post of the Deputy Executive Engineer for more than one reason. Firstly, 4th respondent was appointed as a Work Inspector in Nalgonda District in the year 1988 and was posted as Assistant Engineer in Nizamabad District in the year 1994. When he was not accepted by the Nizamabad District Schedule Castes Cooperative Society Limited, he was directed to the Hyderabad District Schedule Castes Cooperative Society Limited. He joined at Hyderabad in the month September 1994 as incharge Assistant Engineer. May be, 4th respondent could execute work worth Rs.2-00 crores and the petitioner executed only Rs.25-00 lakhs work during the relevant period, but it is not the case of the respondents that they have fixed a target for all the Assistant Engineers and the petitioner has not fulfilled the same. The petitioner has completed the works allotted to him, whereas the 4th respondent might have completed the works more than what was allotted to him, but the criteria adapted by the Collector for the purpose of appraising the performance of the competing candidates was not correct. The seniority in the cadre of Assistant Engineer and the service rendered in the District as a unit was not properly taken into consideration.

Be that as it may, the learned counsel for the petitioner now submits that way back on 05-04-1999 through the Proceedings of the Managing Director of the Society in his file No.A2/8548/APSC/96, the promotion given to the 4th respondent was already cancelled. Therefore, nothing survives to be adjudicated between the parties herein.

In view of the above, without expressing any opinion on merits, respondents are directed to consider the case of the petitioner for being promoted to the post of Deputy Executive Engineer in the Hyderabad District Schedule Castes Cooperative Society Limited, along with others, as per law.

With the above direction, writ petition is disposed of. No order as to costs.

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C.V.Ramulu, J

21st June 2005.

mrk

To

1. The District Collector, & Chairman Hyderabad Dist Scheduled Castes Coop. Society Limited, Hyderabad.

2. The Executive Engineer Social Welfare, Engineering Wing, Hyderabad District Schduled Castes Coop. Society Limited Hyderabad.

3. The Managing Director A.P.Scheduled Castes Finance Corporation Limited, 5th Floor, Telugu Samkshema Bhavan, Masab Tank, Hyderabad.

4. Sri N. Shankaranarayana Working as I/C. Deputy Executive Engineer Social Welfare, Engineering Wing, Hyderabad District Scheduled Castes Coop. Society Limited, Hyderabad.

5. Two CCs to the Government Pleader for Cooperation, High Court of A.P., Hyderabad.

6. Two CD copies.

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